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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

MULTIBANK 2009-1 CML-ADC  
VENTURE, LLC, a Delaware limited liability  
company,

Plaintiff,

v.

JAIMEE YOSHIKAWA, an individual;  
ZOHAR RAPAPORT, an individual; TAL  
DAGAN, an individual; OMRI MERON, an  
individual; THE VILLAGE AT RUSSELL-  
PHASE 1, LLC, a Nevada limited liability  
company; CAHUENGA PROPERTY, LLC, a  
Nevada limited liability company; and  
RUSSELL & I215 DEVELOPMENT NO. 1,  
LLC, a Nevada limited liability company,

Defendants.

Case No.: 02-10-cv-695

**EX PARTE MOTION FOR EXTENSION  
OF TIME TO FILE REPLY BRIEF**

Pursuant to Local Rules 6-2 and 7 -5, plaintiff, by and through its attorneys, move this Court *ex parte* for an Order extending the time for filing the reply brief regarding Plaintiff's Motion to Permit Filing of Second Amended and Supplemental Complaint/Application for Deficiency Judgment (the "Motion" – docket 26). Plaintiff requests the Court issue an Order extending the reply brief deadline until April 4, 2011. No prior requests for an extension of this

1 deadline have been made.

2 Plaintiff's counsel's requested a stipulation from defendant's counsel to extend the due  
3 date for the reply. This request was refused on Wednesday, March 16, 2011. Specifically,  
4 Plaintiff's counsel Kirby J. Smith called for defendant's counsel Raymond C. Dion, and in his  
5 absence was connected with his secretary. Mr. Smith left the message that he wished to request  
6 an extension from Mr. Dion. Attorney Chris Dion returned the call on Wednesday, informed Mr.  
7 Smith that he represented the defendants, and that he was 100% sure the defendants would not  
8 agree to an extension of time.  
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10 The bases for Plaintiff's request are as follows. First, plaintiff's counsel which has  
11 managed this matter from the outset and is knowledgeable about the facts and issues raised in the  
12 Opposition to the Motion (Docket 31) is Tim Mulliner. Mr. Mulliner is presently in trial in the  
13 Eighth Judicial District Court of Nevada on Bank of Nevada adv. Beta Vista Case No. A584349;  
14 this trial is supposed to last through tomorrow. The Opposition overtly criticizes Mr. Mulliner's  
15 handling of the matter, ascribing mistakes and intentional conduct which, in fairness, Mr.  
16 Mulliner should have an opportunity to address in the reply.  
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18 Second, this Motion and action arise out of a unique factual situation which, in fairness,  
19 requires additional time to properly address in a reply. By way of background, and as more  
20 completely stated in the Motion and Opposition, this action arises out of a loan which led to the  
21 default of the defendant borrower and the refusal of defendant guarantors to honor their  
22 guarantees. Unique to this case, the loan was made for the purpose of constructing and  
23 permanently financing two commercial buildings on two parcels of land but, due to a mutual  
24 mistake, the deed intended to transfer ownership of both of the lots to the borrower omitted the  
25 legal description of one of the lots. Without knowledge of the mutual mistake, the lender  
26 continued to honor its obligations under the loan and finance buildings on both lots. Plaintiff's  
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1 current complaint, initially filed May 13, 2010, seeks reformation of the deed to recognize the  
2 second lot as additional security. Although 9 months have passed, that issue is not close to being  
3 resolved. Defendant's filed a partial motion to dismiss on July 20, 2010. That motion has been  
4 fully briefed since August 16, 2010 and remains pending before this Court. No hearing has been  
5 scheduled. On August 23, 2010, the trustee's sale was held on the one lot which unquestionably  
6 was security for the loan. As a result of the sale, the lender had a deficiency action claim against  
7 the borrower and guarantors. The Motion seeks, in part, to add this subsequently matured  
8 deficiency action claim. Defendants argue in the Opposition, without any apparent sense of  
9 irony, that the Motion is either premature or too late. Other additional arguments are made.  
10 Defendants' Opposition alone is 17 pages and contains 27 case and statute citations. Plaintiff  
11 requires additional time to properly address the plethora of issues and citations raised in the  
12 Opposition.  
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1 Defendant requests an Order extending the time to file the Reply Brief regarding the  
2 Motion until April 4, 2011.

3 Dated this 17 day of March, 2011.

4 IT IS SO ORDERED:

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6 UNITED STATES DISTRICT JUDGE

7 Dated: 24 MAR 2011

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9 Respectfully submitted by:

10 LIONEL SAWYER & COLLINS

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